

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Christian Louboutin S.A., Christian Louboutin, :
L.L.C. and Christian Louboutin, :
: Plaintiffs/Counterclaim-Defendants, :
: vs. : Civil Action Number 11-cv-2381
: : (VM)
Yves Saint Laurent America, Inc., Yves Saint :
Laurent America Holding, Inc., Yves Saint Laurent : ECF Case
S.A.S., et al. :
: Defendants/Counterclaim-Plaintiffs. :
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**DECLARATION OF KATE SCHRADE IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' APPLICATION FOR A PRELIMINARY INJUNCTION**

I, **KATE SCHRADE**, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an investigative manager with Marksmen, a company with extensive experience in intellectual property investigations. To date, Marksmen has conducted over 55,000 investigations around the globe specializing in intellectual property matters.
2. Marksmen has developed a proprietary methodology called eBeagle that involves software, strategic and customized Internet searches to monitor for trademark infringement in text, logos and designs, social networking, and streaming media.
3. Defendants Yves Saint Laurent America, Inc., Yves Saint Laurent America Holding, Inc., and Yves Saint Laurent S.A.S. (collectively, "Defendants"), through their counsel Debevoise & Plimpton LLP ("Debevoise"), retained Marksmen to identify examples of women's footwear styles featuring red outsoles that are produced by designers other than Christian Louboutin and Yves Saint Laurent and that are or have been available for purchase in the United States.
4. From May 2, 2011 to June 22, 2011, Marksmen performed a search using the eBeagle methodology. We searched the Internet using key words provided by Debevoise, such as "red sole." We also used the eBeagle methodology to search the websites of shoe and fashion retailers for images and product descriptions that indicate the use of a red outsole. In order to identify shoes available for purchase

in the United States, we looked for products advertised for sale in U.S. dollars. Following the use of the eBeagle methodology, we performed additional targeted searching to identify styles first offered for purchase after June 22, 2011. Although these searches yielded numerous examples detailed below, it is to be expected that there are other examples not captured by any of these searches.

5. We carefully reviewed each result yielded by the eBeagle methodology or in subsequent Internet searching and made an independent determination as to whether the product was in fact an example of women's footwear with a red outsole and whether the product was being offered for sale in the United States. We did so based on images and information presented on the website featuring the product in question. For each result that appeared to meet the search criteria, we archived the webpage as a .pdf file. A collection of the webpages that we archived is attached hereto as **Exhibit A**.
6. At the direction of counsel, we purchased samples of certain products reflected in Exhibit A. We had the shoes delivered directly to an address in Burbank, CA. Upon receipt of the samples, we examined them to confirm that the outsoles are in fact red.
7. The results captured by the eBeagle methodology primarily include footwear styles available for purchase on the date the search was performed. Accordingly, the search generally does not capture styles that were available for purchase at a prior point in time.
8. Paragraphs 9 through 76 of this declaration contain a synopsis of the results of our search, as described in paragraphs 4 and 5 above. In addition, where I purchased samples, as described in paragraph 6 above, the fact of the purchase is indicated below. If called upon as a witness, I could testify to this information based on personal knowledge and/or a review of Marksmen's files.

Dress Shoes with Red Soles Identified Through the Internet

9. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a peep toe slide produced by Dolce & Gabbana. As of June 17, 2011, it was available for purchase through Bluefly.com at a price of \$399.99. According to the seller's website, this price was discounted from an original sale price of \$525.00. The complete URL of the website where this product was located is http://www.bluefly.com/Dolce---Gabbana-red-trim-leopard-peep-toe-slides/COLOR_CROSS-SELL/308898801/detail.fly. An archived image of this webpage is included at pages 1 to 2 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The price paid was \$399.00. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

10. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a high heel gladiator shoe produced by Dolce & Gabbana. As of June 29, 2011, it was available for purchase through eBay at a price of \$99.99. The complete URL of the website where this product was located is http://cgi.ebay.com/Dolce-Gabbana-White-Suede-High-Heel-Gladiator-US9-39-130537909688?pt=US_Women_s_Shoes&hash=item1e64aa6db8. An archived image of this webpage is included at pages 3 to 6 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on July 1, 2011. The price paid was \$99.99. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

11. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a red leather platform shoe produced by Dolce & Gabbana. As of May 5, 2011, it was available for purchase through eBay [seller: *prime-fashions4u*] at a price of \$599.25. According to the seller's website, this price was discounted from an original sale price of \$799.00. The complete URL of the website where this product was located is http://cgi.ebay.com/ws/eBayISAPI.dll?ViewItem&item=140542020943#ht_2216wt_1009. An archived image of this webpage is included at pages 7 to 9 of Exhibit A.



12. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a red leather platform shoe produced by John Galliano. As of May 5, 2011, it was available for purchase through eBay [seller: exquisite_finds] at a price of \$695.00. According to seller's website, this price was discounted from an original sale price of \$1,095.00. The complete URL of the website where this product was located is http://cgi.ebay.com/ws/eBayISAPI.dll?ViewItem&item=310168603075#ht_3514wt_1141. An archived image of this webpage is included at pages 10 to 13 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 29, 2011. The price paid was \$695.00. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

13. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Chanel. As of June 29, 2011, it was available for purchase through Bonanza.com at a price of \$510.25. According to the seller's website, this price was discounted from an original sale price of \$895.00. The complete URL of the website where this product was located is <http://www.bonanza.com/listings/-895-CHANEL-RUNWAY-Gold-Chain-Logo-Red-Patent-Shoes-36-5/13685988>. An archived image of this webpage is included at pages 14 to 16 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 29, 2011. The price paid was \$510.25. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

14. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a Red and Navy heel produced by Chanel. As of May 5, 2011, it was available for purchase through Bonanza.com [seller: Steven212 of New York, NY] at a price of \$650.00 or best offer. The complete URL of the website where this product was located is http://www.bonanza.com/booths/Steven212/items/Chanel_Red_and_Navy_Heels_Size_39. An archived image of this webpage is included at pages 17 to 21 of Exhibit A.



15. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a sandal produced by Christian Dior. As of June 29, 2011, it was available for purchase through eBay at a Buy It Now price of \$359.99. The complete URL of the website where this product was located is http://cgi.ebay.com/CHRISTIAN-DIOR-Red-Sandals-HEELS-NIB-Size-39-390314590921?pt=US_Women_s_Shoes&hash=item5ae09002c9. An archived image of this webpage is included at pages 22 to 25 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The price paid was \$359.99. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

16. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Balenciaga Paris. As of June 29, 2011, it was available for purchase through eBay at a Buy It Now price of \$199.99. The complete URL of the website where this product was located is http://cgi.ebay.com/BALENCIAGA-PARIS-Red-LEATHER-POINTED-TOE-PUMP-37-5-/180675455824?pt=US_Women_s_Shoes&hash=item2a1118ab50. An archived image of this webpage is included at pages 26 to 30 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 29, 2011. The price paid was \$199.99. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

17. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a sandal produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through LunaticShopper.com at a price of \$150.00. According to the seller's website, this price was discounted from an original sale price of \$600.00. The complete URL of the website where this product was located is http://www.lunaticshopper.com/luciano-padovan-carmen-sandal-in-steel?utm_medium=shoppingengine&utm_source=thefind. An archived image of this webpage is included at pages 31 to 32 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The price paid was \$150.00. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

18. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through Amazon.com at a price of \$560.00. The complete URL of the website where this product was located is http://www.amazon.com/dp/B004U8Q72S/ref=asc_df_B004U8Q72S1582053?tag=thefind0170052-20&creative=395261&creativeASIN=B004U8Q72S&linkCode=asn. An archived image of this webpage is included at pages 33 to 35 of Exhibit A.



19. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a platform slingback produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through Eu.Forzari.com at a price of \$435.00. The complete URL of the website where this product was located is http://www.eu.forzieri.com/usa/product_view.asp?l=usa&c=usa&dept_id=73&pf_id=pv435611-002&id_valore1=&id_valore2=&id_valore3=&id_valore4=1&id_valore5=&popup=0&AID=10273657&PID=1609763&SID=tfc_1_524_110616_673c2fb361a8b71f7249085bb04c6e65%3A0000. An archived image of this webpage is included at pages 36 to 38 of Exhibit A.



20. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a peep-toe pump produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through Eu.Forzari.com at a price of \$470.00. The complete URL of the website where this product was located is http://www.eu.forzieri.com/usa/product_view.asp?l=usa&c=usa&dept_id=73&pf_id=pv431111-006&id_valore1=&id_valore2=&id_valore3=&id_valore4=1&id_valore5=&popup=0&AID=10273657&PID=1609763&SID=tfc_-1_524_110616_b9f246ee285c6c28f75bfb705e05ec22%3A0000. An archived image of this webpage is included at pages 39 to 40 of Exhibit A.



21. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a sandal produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through Eu.Forzari.com at a price of \$540.00. The complete URL of the website where this product was located is http://www.eu.forzieri.com/usa/product_view.asp?l=usa&c=usa&dept_id=73&pf_id=pv433111-003&id_valore1=&id_valore2=&id_valore3=&id_valore4=6&id_valore5=&popup=0&AID=10273657&PID=1609763&SID=tfc_-1_524_110616_15f4c28ddf9340e457963ad8fc4d36bd%3A0000. An archived image of this webpage is included at pages 41 to 43 of Exhibit A.



22. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a platform pump produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through Eu.Forzari.com at a price of \$390.00. The complete URL of the website where this product was located is http://www.eu.forzieri.com/usa/product_view.asp?l=usa&c=usa&dept_id=73&pf_id=pv432011-008&id_valore1=&id_valore2=&id_valore3=&id_valore4=1&id_valore5=&popup=0&AID=10273657&PID=1609763&SID=tfc_-1_524_110616_201bca389a9c7728ee12b29de4a958da%3A0000. An archived image of this webpage is included at pages 44 to 45 of Exhibit A.



23. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a Mary Jane shoe produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through LunaticShopper.com at a price of \$145.00. According to the seller's website, this price was discounted from an original sale price of \$580.00. The complete URL of the website where this product was located is http://www.lunaticshopper.com/luciano-padovan-carola-mary-jane-in-butterfly?utm_medium=shoppingengine&utm_source=thefind. An archived image of this webpage is included at pages 46 to 47 of Exhibit A.



24. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was

advertised as a pump produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through LunaticShopper.com at a price of \$150.00. According to the seller's website, this price was discounted from an original sale price of \$600.00. The complete URL of the website where this product was located is http://www.lunaticshopper.com/luciano-padovan-magik-pump-in-black?utm_medium=shoppingengine&utm_source=thefind. An archived image of this webpage is included at pages 48 to 49 of Exhibit A.



25. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a sandal produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through LunaticShopper.com at a price of \$143.75. According to the seller's website, this price was discounted from an original sale price of \$575.00. The complete URL of the website where this product was located is http://www.lunaticshopper.com/luciano-padovan-carola-patent-sandal-in-orange?utm_medium=shoppingengine&utm_source=thefind. An archived image of this webpage is included at pages 50 to 51 of Exhibit A.



26. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a slingback pump produced by Luciano Padovan. As of June 16, 2011, it was available for purchase through ShopTheShoebox.com at a price of \$410.00. The complete URL of the website where this product was located is <http://www.shoptheshoebox.com/art-pump/21062/150612?SID=4dfa9392051897f2>. An archived image of this webpage is included at page 52 of Exhibit A.



27. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a platform sandal produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through Bluefly.com at a price of \$500.00. According to the seller's website, this price was discounted from an original sale price of \$625.00. The complete URL of the website where this product was located is <http://www.bluefly.com/Cesare-Paciotti-black-leather-strappy-platform-sandals/SEARCH/303844601/detail.fly>. An archived image of this webpage is included at pages 53 to 54 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The price paid was \$500.00. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

28. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase at a price of \$480.00. The phone number provided for purchase was (310) 273-3220. The complete URL of the website where this product was located is <http://www.marieclaire.com/fashion/trends/articles/fall-shoes-best-07>. An archived image of this webpage is included at page 55 of Exhibit A.



29. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a red shoe produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: lestrada2005] at a price of \$499.00. According to the seller's website, this price was discounted from an original sale price of \$845.00. The complete URL of the website where this product was located is http://cgi.ebay.com/New-2010-11-Cesare-Paciotti-Red-Shoes-Size-40-10-845-/190545465968 - ht_1633wt_878. An archived image of this webpage is included at pages 56 to 58 of Exhibit A.



30. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump with red sole produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: nellads*123] at a starting bid price of \$140.00. According to the seller's website, this price was discounted from an original sale price of \$500.00+. The complete URL of the website where this product was located is http://cgi.ebay.com/Black-Silk-Cesare-Paciotti-Pumps-louboutin-Red-Soles-41-/160603290824 - ht_500wt_1033. An archived image of this webpage is included at pages 59 to 60 of Exhibit A.



31. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a shoe produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: asiabella12] at a Buy It Now price of \$150.00. The complete URL of the website where this product was located is http://cgi.ebay.com/cesare-paciotti-size-38-and-37-/110696457645 - ht_500wt_799. An archived image of this webpage is included at pages 61 to 62 of Exhibit A.



32. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: fabfashionfinds2011] at a Buy It Now price of \$225.99. The complete URL of the website where this product was located is http://cgi.ebay.com/cesare-paciotti-red-black-pumps-heels-sz-8-5-new-/270739556882 - ht_2427wt_1018. An archived image of this webpage is included at pages 63 to 66 of Exhibit A.



33. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a stiletto platform pump produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: mwexchng] at a Buy It Now price of \$350.00. The complete URL of the website where this product

was located is http://cgi.ebay.com/Cesare-Paciotti-Patent-Stiletto-Platforms-Pumps-US-10-/270764293414 - ht_7730wt_1018. An archived image of this webpage is included at pages 67 to 74 of Exhibit A.



34. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a stiletto platform pump produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: mwexchng] at a Buy It Now price of \$350.00. The complete URL of the website where this product was located is http://cgi.ebay.com/Cesare-Paciotti-Patent-Stiletto-Platforms-Pumps-US-35-5-/250836649538 - ht_12865wt_1018. An archived image of this webpage is included at pages 75 to 86 of Exhibit A.



35. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump sandal produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: mwexchng] at a Buy It Now price of \$350.00. The complete URL of the website where this product was located is http://cgi.ebay.com/Cesare-Paciotti-Catwalk-Nappa-Leather-Pumps-Sandals-8-/270764293409 - ht_1965wt_1018. An archived image of this webpage is included at pages 87 to 89 of Exhibit A.



36. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump sandal produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: mwexchng] at a Buy It Now price of \$350.00. The complete URL of the website where this product was located is http://cgi.ebay.com/Cesare-Paciotti-Beautiful-Pumps-Sandals-US-9-/350470140947 - ht_4855wt_1018. An archived image of this webpage is included at pages 90 to 95 of Exhibit A.



37. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump sandal produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: cesarepaciotiboutique] at a Buy It Now price of \$350.00. The complete URL of the website where this product was located is <http://cgi.ebay.com/Cesare-Paciotti-Luxurious-Black-Leather-Pumps-38-/310323144004> - ht_8506wt_1018. An archived image of this webpage is included at pages 96 to 104 of Exhibit A.



38. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump sandal produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: dknight171] at a Buy It Now price of \$389.99. The complete URL of the website where this product was located is <http://cgi.ebay.com/NEW-Cesare-Paciotti-SIZE-36-5-BLACK-Suede-Jeweled-/260801827441> - ht_500wt_1033. An archived image of this webpage is included at pages 105 to 106 of Exhibit A.



39. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a stiletto pump produced by Cesare Paciotti. As of June 17, 2011, it was available for purchase through eBay [seller: mwexchng] at a Buy It Now price of \$350.00. The complete URL of the website where this product was located is <http://cgi.ebay.com/Cesare-Paciotti-Beautiful-Stiletto-Pumps-US-6-250827445241> - ht_5422wt_1018. An archived image of this webpage is included at pages 107 to 112 of Exhibit A.



40. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Cesare Paciotti. As of June 17, 2011, it was featured on TheShoeExpert.Wordpress.com. The complete URL of the website where this product was located is <http://theshoeexpert.wordpress.com/2010/12/25/shoe-lovers-are-you-wearing-your-red-christmas-shoes-today/>. According to this website, this product was available for purchase at a price of \$275.00 on or around December 25, 2010. An archived image of this webpage is included at pages 113 to 120 of Exhibit A.



41. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a contrast sole pump produced by Jil Sander. As of May 5, 2011, it was available for purchase through LaGarconne.com at a price of \$495.00. The complete URL of the website where this product was located is <http://www.lagarconne.com/store/item.htm?itemid=10432>. An archived image of this webpage is included at pages 121 to 122 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The price paid was \$346.50, which was discounted from the original sale price of \$495.00. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

42. The footwear style in the images immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a sling-back heel produced by Salvatore Ferragamo. As of May 6, 2011 it was available for purchase through Zappos.com at a price of \$320.00. The complete URL of the website where this product was located is <http://www.zappos.com/salvatore-ferragamo-my-sun-rosso> (which automatically redirects to <http://couture.zappos.com/n/p/p/7736882/c/3772.html>). An archived image of this webpage is included at pages 123 to 125 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 29, 2011. The price was listed as \$320.00. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

43. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a slingback produced by Marc Jacobs. As of June 29, 2011, it was available for purchase through eBay at a price of \$149.99. The complete URL of the website where this product was located is http://cgi.ebay.com/new-480-MARC-JACOBS-red-sand-slingbacks-Shoes-37-US-7-/390326434919?pt=US_Women_s_Shoes&hash=item5ae144bc67. An archived image of this webpage is included at pages 126 to 127 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 29, 2011. The price paid was \$149.99. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

44. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a red sole pump produced by Corrado Maretto. As of June 17, 2011, it was available for purchase through eBay [seller: conniegeorgia] at a starting bid price of \$40.00. According to the seller's website, this price was discounted from an original sale price of \$350.00. The complete URL of the website where this product was located is http://cgi.ebay.com/CORRADO-MARETTO-7B-IVORY-BLACK-RED-SOLE-PUMP-3-5HL-350-/270765823474?pt=US_Women_s_Shoes&hash=item3f0ae695f2 - ht_500wt_799. An archived image of this webpage is included at pages 128 to 130 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The Buy It Now price paid was \$59.99. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

45. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as an ankle boot produced by Chie Mihara. As of June 22, 2011, it was featured on MyColorFashion.com. The complete URL of the website where this product was located is <http://www.mycolorfashion.com/201007/chie-mihara-flower-bow-suede-ankle-boots.html>. An archived image of this webpage is included at pages 131 to 132 of Exhibit A.



46. The footwear style in the images immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a Nova Ballet shoe produced by Burberry. As of May 6, 2011, it was available for purchase through Zappos.com at a price of \$250.00. The complete URL of the website where this product was located is <http://www.zappos.com/burberry-nova-ballet-military-red>. An archived image of this webpage is included at pages 133 to 135 of Exhibit A.



47. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a sling-back sandal produced by Nine West. As of May 6, 2011, it was available for purchase through Zappos.com at a price of \$68.95. The complete URL of the website where this product was located is <http://www.zappos.com/nine-west-sharina-red-patent-synthetic>. An archived image of this webpage is included at pages 136 to 138 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The price paid was \$68.95. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

48. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a heel produced by Via Spaga. As of June 30, 2011, it was available for purchase through Zappos.com at a price of \$198.00. The complete URL of the website where this product was located is

<http://www.zappos.com/product/7808408/color/1141>. An archived image of this webpage is included at pages 139 to 143 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The price paid was \$198.00. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

49. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Paris Hilton. On or around May 4, 2011, it was available for purchase through Heels.com at a price of \$85.49. The complete URL of the website where this product was located is http://www.heels.com/womens-shoes/ali-heel-red-marble.html?utm_medium=affiliate&utm_campaign=affiliate&utm_source=aff_id&atrack=cj. An archived image of this webpage is included at pages 144 to 149 of Exhibit A.



50. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a platform sandal produced by Paris Hilton. As of June 22, 2011, it was available for purchase through Heels.com at a price of \$94.99. The complete URL of the website where this product was located is

<http://www.heels.com/womens-shoes/liza-purple-leopard-glitter.html>. An archived image of this webpage is included at pages 150 to 162 of Exhibit A.



51. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a platform shoe produced by Jessica Simpson. As of June 22, 2011, it was available for purchase through Heels.com at a price of \$89.99. The complete URL of the website where this product was located is <http://www.heels.com/womens-shoes/kosi-chili-pepper-patent.html>. An archived image of this webpage is included at pages 163 to 167 of Exhibit A.



52. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a designer shoe with red sole produced by Danssara. As of June 17, 2011, it was available for purchase through eBay [seller: serenityshoes] at a Buy It Now price of \$79.99. According to the seller's website, this price was discounted from an original sale price of \$425.00. The complete URL of the website where this product was located is http://cgi.ebay.com/snake-pattern-leather-women-designer-shoes-red-sole-new-/250807117724?pt=US_Women_

s_Shoes&var=&hash=item80104deb53 - ht_500wt_799. An archived image of this webpage is included at pages 168 to 169 of Exhibit A.



53. The footwear style in the images immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Vivienne Westwood by Melissa. On or around May 5, 2011, it was available for purchase through Endless.com at a price of \$165.00. According to the seller's website, this price was discounted from an original sale price of \$185.00. The complete URL of the website where this product was located is <http://www.endless.com/Vivienne-Westwood-Melissa-Womens-Anglomania/dp/B00466HPD4/185-4058535-8711216?ie=UTF8&cAsin=B00466HP7U&suppressRedirect=1&fromPage=search&sr=1-6&ie=UTF8&qid=1297364928188&asins=B003DZ1BQG%2CB003DZ1BOS%2CB003DZ1BU2%2CB003DZ1BRK%2CB003DZ1BN4%2CB00466HP3E%2CB00466HP16%2CB00466>. An archived image of this webpage is included at pages 170 to 171 of Exhibit A.



54. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Ros Hommerson. On or around May 5, 2011,

it was available for purchase through Endless.com at a price of \$80.83. According to the seller's website, this price was discounted from an original sale price of \$109.95. The complete URL of the website where this product was located is <http://www.endless.com/dp/B003OQTO5Y/186-5516497-2976719?ie=UTF8&creative=395033&suppressRedirect=1&linkCode=asn&tag=endlesscj-20&creativeASIN=B003OQTO5Y>. An archived image of this webpage is included at pages 172 to 173 of Exhibit A.



55. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a highheel pump produced by oh...Deer! As of May 5, 2011, it was available for purchase through eBay [seller: yostismite] at a price of \$95.00. The complete URL of the website where this product was located is http://cgi.ebay.com/ws/eBayISAPI.dll?ViewItem&item=110679413337&hlp=false&rvr_id=229960591244&crlp=1_263602_304652&UA=M*S%3F&GUID=109818de12e0a043744668b6ffef2a28&itemid=110679413337&ff4=263602_304652. An archived image of this webpage is included at pages 174 to 175 of Exhibit A.



56. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a peep toe pump with red sole produced by oh...Deer! As of May 5, 2011, it was available for purchase through Amazon.com [seller: Fashion Bliss] at a price of \$105.00. The complete URL of the website where this product was located is <http://www.amazon.com/DEER-Eliza-Peep-Shoes/dp/B0014FJ8DK>. An archived image of this webpage is included at pages 176 to 179 of Exhibit A.



57. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump with red sole produced by Oh Deer. As of June 22, 2011, it was available for purchase through eBay at a Buy It Now price of \$149.99. The complete URL of the website where this product was located is <http://cgi.ebay.com/NEW-OH-DEER-WOMENS-WHITE-CHLOE-RED-SOLES-PUMPS-NIB-10-/370344653314>. An archived image of this webpage is included at pages 180 to 183 of Exhibit A.



58. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a heel produced by EIGHT2SIX. As of May 3, 2011, it was available for purchase through Heels.com at a price of \$89.99. The complete URL of the website where this product was located is http://www.heels.com/womens-shoes/swaggaa-shoe-leopard.html?utm_medium=affiliate&utm_campaign=affiliate&utm_source=aff_id&atrack=cj. An archived image of this webpage is included at pages 184 to 188 of Exhibit A.



59. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a stiletto produced by Apple Bottoms. As of May 4, 2011, it was available for purchase through DrJays.com at a price of \$37.22. The complete URL of the website where this product was located is http://www.drjays.com/shop/P965505/apple-bottoms/aretha-stilettos.html?currency=aud&utm_source=cse&utm_medium=myshopping-au&utm_campaign=Apple%20Bottoms%20Women&utm_content=Footwear&utm_term=965505%20-%20aretha%20stilettos. An archived image of this webpage is included at pages 189 to 190 of Exhibit A.



60. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Pretty Naomi. As of May 5, 2011, it was available for purchase through PrettyNaomi.com at a price of \$68.98. The complete URL of the website where this product was located is <http://www.prettynaomi.com/pumps/268-red-3-high-heel-with-platform-nubuck-women-s-fashion-pumps.html>. An archived image of this webpage is included at pages 191 to 192 of Exhibit A.



61. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a heeled boot produced by Liliana Jones. As of May 5, 2011, it was available for purchase through Stylefeeder.com at a price of \$59.95. The complete URL of the website where this product was located is <http://www.stylefeeder.com/i/mycylhf0/Liliana-Jones-Women-Apos-S-Strappy-Suede-Booties>. An archived image of this webpage is included at pages 193 to 194 of Exhibit A.



62. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a heel produced by MIXX. As of May 5, 2011, it was available for purchase through eCrater.com [seller: divinebeautyplus] at a price of \$23.90. The complete URL of the website where this product was located is <http://www.ecrater.com/p/10885801/mixx-leopard-peep-toe-red>. An archived image of this webpage is included at pages 195 to 196 of Exhibit A.



63. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by CARLOS by Carlos Santana. As of May 6, 2011, it was available for purchase through Zappos.com at a price of \$65.00. According to the seller's website, this price was discounted from an original sale price of \$88.95. The complete URL of the website where this product was located is <http://www.zappos.com/carlos-by-carlos-santana-prestige-red-vintage>. An archived image of this webpage is included at pages 197 to 199 of Exhibit A.



64. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a sandal produced by Carlos by Carlos Santana. As of May 6, 2011, it was available for purchase through Onlineshoes.com at a price of \$89.95. The complete URL of the website where this product was located is http://www.onlineshoes.com/womens-carlos-by-carlos-santana-glint-red-gold-p_id218286?adtrack=froogle&term=Women%27s+Carlos+by+Carlos+Santana+Glint&offer=&ci_src=14110944&ci_sku=259568. An archived image of this webpage is included at pages 200 to 202 of Exhibit A.



65. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a black patent heel with red sole produced by Highest Heel Collection. As of June 16, 2011, it was available for purchase through ShoeBuy.com at a price of \$69.95. The complete URL of the website where this product was located is http://www.shoebuy.com/highest-heel-sinful/306362/654321?cm_mmc=like_-none_-none_-none. An archived image of this webpage is included at pages 203 to 205 of Exhibit A.



66. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Gomax. As of June 16, 2011, it was available for purchase through ShiekhShoes.com at a price of \$21.97. According to the seller's website, this price was discounted from an original sale price of \$39.97. The complete URL of the website where this product was located is <http://www.shiekhs.com/p-18179-womens-lauren-50.aspx>. An archived image of this webpage is included at pages 206 to 207 of Exhibit A.



67. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a platform heel produced by Arden B. As of June 16, 2011, it was available for purchase through ArdenB.com at a price of \$34.99. According to the seller's website, this price was discounted from an original sale price of \$49.00. The complete URL of the website where this product was located is http://www.ardenb.com/catalog/product.jsp?categoryId=142&subCategoryId=980&productId=44209&utm_source=gan&utm_medium=affiliate&utm_campaign=k

108283 - ClosePopup. An archived image of this webpage is included at page 208 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The price was \$34.99. A 50% discount was provided at checkout for a final price paid of \$17.49. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

68. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Michael Antonio. As of June 22, 2011, it was available for purchase through Heels.com at a price of \$64.99. The complete URL of the website where this product was located is <http://www.heels.com/womens-shoes/league-red-patent-pu.html>. An archived image of this webpage is included at pages 209 to 213 of Exhibit A.



At the direction of Debevoise, I purchased a sample of this product from the foregoing website on June 30, 2011. The price paid was \$64.99. Upon receipt of the sample, I examined the shoes to confirm that the outsoles are in fact red, which they are.

69. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a pump produced by Michael Antonio. As of June 22, 2011, it was available for purchase through Heels.com at a price of \$44.99. The complete URL of the website where this product was located is <http://www.heels.com/womens-shoes/tallie-sandal-red-pu.html>. An archived image of this webpage is included at pages 214 to 226 of Exhibit A.



Other Shoes with Red Soles Identified Through the Internet

70. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a sandal produced by Givenchy. As of June 17, 2011, it was available for purchase through Bluefly.com at a price of \$184.00. According to the seller's website, this price was discounted from an original sale price of \$230.00. The complete URL of the website where this product was located is <http://www.idbarn.com/index.php?action=prodspec&itemID=133382588>. An archived image of this webpage is included at pages 227 to 228 of Exhibit A.



71. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a flat produced by Marc by Marc Jacobs. As of May 6, 2011, it was available for purchase through Zappos.com at a price of \$135.00. The complete URL of the website where this product was located is <http://www.zappos.com/marc-by-marc-jacobs-615120-red>. An archived image of this webpage is included at pages 229 to 231 of Exhibit A.



72. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a rain boot produced by Burberry. As of May 4, 2011, it was available for purchase through Zappos.com at a price of \$225.00. The complete URL of the website where this product was located is <http://couture.zappos.com/n/p/dp/70758118/c/268170.html>. An archived image of this webpage is included at pages 232 to 234 of Exhibit A.



73. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a boot produced by Steve Madden. As of May 4, 2011, it was available for purchase through Papashoe-com.amazonwebstore.com at a price of \$79.95. The complete URL of the website where this product was located is http://www.stevemadden.com/item.aspx?id=52626&CID=cj_217899. An archived image of this webpage is included at pages 235 to 241 of Exhibit A.



74. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a basketball shoe produced by Nike. As of May 5, 2011, it was available for purchase through Overstock.com at a price of \$60.99. According to the seller's website, this price was discounted from an original sale price of \$117.99. The complete URL of the website where this product was located is <http://www.overstock.com/Clothing-Shoes/Nike-Womens-Blazer-High-Basketball-Shoes/5711231/product.html?cid=123620>. An archived image of this webpage is included at pages 242 to 245 of Exhibit A.



75. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a biking shoe produced by Chrome. As of May 4, 2011, it was available for purchase through ChromeBagsStore.com at a price of \$95.00. The complete URL of the website where this product was located is <http://www.chromebagsstore.com/shoes.html>. An archived image of this webpage is included at pages 246 to 249 of Exhibit A.



76. The footwear style in the image immediately following this paragraph features a red outsole and has been offered for sale in the United States. This product was advertised as a clog produced by Jolly's. As of May 5, 2011, it was available for purchase through CSNStores.com at a price of \$59.95. The complete URL of the website where this product was located is http://www.csnstores.com/Jollys-Womens-Fashion-Clog-in-Red-LFC-RED-L3504-K~LOY1004.html?refid=FR49-LOY1004_3902947_3902948&PiID=3902947&PiID=3902948. An archived image of this webpage is included at pages 250 to 252 of Exhibit A.



Additional Examples of Shoes with Red Soles

77. Paragraphs 78 through 93 introduce additional information provided to Marksmen regarding sales in the United States of women's footwear styles featuring red outsoles. My understanding is that each of the styles reflected in these paragraphs was produced and sold in the United States by Carmen Steffens, and that the information reflected herein was provided by Carmen Steffens to Debevoise. Debevoise in turn provided that information to Marksmen for inclusion in this declaration.
78. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2004 Fall/Winter collection. The original retail price is not

available at this time. The product number was 2914 10 039.



79. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2004 Fall/Winter collection. The original retail price is not available at this time. The product number was 5704 19 040.



80. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2004 Spring/Summer collection. The original retail price is not available at this time. The product number was 7205 33 080.



81. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2004 Fall/Winter collection. The original retail price is not available at this time. The product number was 8104 19 039.



82. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2004 Fall/Winter collection. The original retail price is not available at this time. The product number was 8104 19 002.



83. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2004 Fall/Winter collection. The original retail price is not available at this time. The product number was 8124 19 039.



84. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2004 Fall/Winter collection. The original retail price is not available at this time. The product number was 8124 10 046.



85. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2004 Fall/Winter collection. The original retail price is not available at this time. The product number was 8504 10 036.



86. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2009 Winter collection. The original retail price was \$258.00. The product number was 8314 015 615.



87. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2009 Summer collection. The original retail price was \$214.00. The product number was 8453 373 724.



88. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2009 Winter collection. The original retail price was \$248.00. The product number was 9354 015 615.



89. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2010 Winter collection. The original retail price was \$434.00. The product number was 8876 399 001.



90. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen

Steffens as part of its 2010 Winter collection. The original retail price was \$308.00. The product number was 9216 399 008.



91. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2010 Summer collection. The original retail price was \$228.00. The product number was 9305 015 244.



92. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2010 Winter collection. The original retail price was \$254.00. The product number was 9326 282 091.



93. On information and belief, the footwear style in the image immediately following this paragraph features a red outsole and was sold in the United States by Carmen Steffens as part of its 2010 Winter collection. The original retail price was \$388.00. The product number was 9936 015 057.



* * * * *

I declare under penalties of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 11th day of July, 2011 in Glendale, California.

Kate Schrader